

REMARKS

Claims 9-10, 15, 18-20 and 32-33 are under examination. In order to advance prosecution, claim 9 has been amended to be limited to compounds wherein R₁-R₄ are identical, and are -OCH₃, substituted or unsubstituted amino acid residues or salts thereof. Support for the amendment can be found throughout the specification. No new matter has been added. Reconsideration is requested.

Claims 9-10, 15 and 18-20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Howell et al. (U.S. Patent No. 5,541,232; 1996). It is the Examiner's view that Howell teaches a method for inhibition and/or reversal of multidrug resistant phenomenon in a patient that covers the claimed uses. This rejection is traversed for the following reasons.

Howell et al. is directed to the use of catecholic butanes such as NDGA (nordihydroguaiaretic acid) for treatment of multidrug resistance. This is different from Applicant's claimed use in that Howell et al. inherently requires the administration of additional drug(s) to which the multidrug resistance develops. The exemplified formula for the subject compounds of Howell et al. includes 13 substituents that can be varied to encompass thousands of possible drug candidates (see, e.g., the formula at col. 5, line 25). The compounds are said to be useful in the treatment of drug resistance that develops during treatment of a wide variety of solid mammalian tumors or hematological malignancies, as noted in the paragraph beginning at col. 6, line 25. However, the evidence presented in the examples of Howell et al. is limited to a formulation of the base compound NDGA (Example 1), *in vitro* testing of the effects of NDGA on doxorubicin efflux (Example 2), *in vitro* modulation of vinblastine toxicity and uptake by NDGA (Examples 3-7), and *in vitro* modulation of cisplatin uptake by NDGA. Thus, no evidence is provided for any of the subject compounds other than NDGA. Furthermore, as noted above, the disclosure of Howell et al. teaches the use of such NDGA derivatives, not alone as primary anticancer agents, but for use in conjunction with anticancer agents to prevent or overcome drug resistance. It is respectfully submitted that Howell et al. has not enabled the use of the presently claimed derivatives, now limited to compounds wherein R₁-R₄ are identical, and are -OCH₃, and substituted or unsubstituted amino acid residues or salts thereof, for the treatment of leukemia, as recited in claim 9. In contrast, Applicants have shown that the compounds recited in claim 9 are particularly useful for the treatment of leukemia (See, e.g., Figures

9 and 10 of the present application). Applicants have provided evidence that the recited compounds, when administered alone, are particularly effective against leukemia. Accordingly, it is respectfully submitted that the presently pending claims are not anticipated by Howell et al.

Claims 9-10, 15, 18-20 and 32-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Howell et al. (U.S. Patent No. 5,541,232; 1996). This rejection is traversed for the following reasons.

It is the Examiner's position that Howell et al. teaches a method for the inhibition and/or reversal of multidrug resistant phenomenon in a patient and thereby treatment of both solid malignant tumors and hematological malignancies comprising the administration of NDGA or an analog thereof to a patient. It is the Examiner's position that the claimed concentrations would have been obvious to a person of skill in the art. Applicants respectfully submit that for the reasons detailed above, the selection of the particular compounds wherein R₁-R₄ are identical, and are -OCH₃, substituted or unsubstituted amino acid residues or salts thereof, for the treatment of leukemia, is neither anticipated nor obvious. There is no reason or even a hint as to why one skilled in the art would specifically select from Howell et al. the recited compounds for the treatment of leukemia, as exemplified in Examples 9 and 10 of the application and presently claimed. Accordingly, it is respectfully submitted that claims 9-10, 15, 18-20 and 32-33 are not obvious over Howell et al. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 9-10, 15, 18-20 and 32-33 are provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 21, 24-26, 30-32, 35, 39-50, 54-62 and 64-72 of U.S. Patent Application No. 11/284,111. Applicants will consider filing a Terminal Disclaimer if the rejection is maintained when otherwise allowable subject matter has been indicated.

All objections and rejections having been addressed, it is respectfully submitted that the application is in condition for allowance, and Notice to that effect is respectfully requested.

Respectfully submitted,

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